

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 5 September 2022

Public Authority: Office of the Dorset Police and Crime Commissioner

Address: The Office of the Police and Crime Commissioner for Dorset
Force Headquarters
Winfrith
Dorchester
Dorset
DT2 8DZ

Decision (including any steps ordered)

1. The complainant requested information relating to complaints about the previous Police and Crime Commissioner for Dorset, Martyn Underhill. By the date of this notice the Dorset Police and Crime Commissioner had not issued a substantive response to this request.
2. The Commissioner's decision is that the Dorset Police and Crime Commissioner has breached section 10(1) of FOIA in that it failed to provide a valid response to the request within the statutory time frame of 20 working days.
3. The Commissioner requires the Dorset Police and Crime Commissioner to take the following step to ensure compliance with the legislation.
 - The Dorset Police and Crime Commissioner must provide a substantive response to the request in accordance with its obligations under FOIA.
4. The Dorset Police and Crime Commissioner must take this step within 35 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of FOIA and may be dealt with as a contempt of court.

Request and response

5. On 28 April 2022, the complainant wrote to the Dorset Police and Crime Commissioner and requested information relating to the public authority's internal complaints procedure which can be found in the annex below, highlighted in bold.
6. The Dorset Police and Crime Commissioner did not acknowledge the request. To date, a substantive response has not been issued.

Scope of the case

7. The complainant contacted the Commissioner on 18 July 2022 to complain about the Dorset Police and Crime Commissioner's failure to respond to their request.
8. The Commissioner has considered whether the Dorset Police and Crime Commissioner has complied with its obligations in relation to the time for compliance at section 10(1) of FOIA.

Reasons for decision

9. Section 1(1) of FOIA states that:

"Any person making a request for information to a public authority is entitled –

(a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and

(b) if that is the case, to have that information communicated to him."
10. Section 10(1) of FOIA states that a public authority must respond to a request promptly and "not later than the twentieth working day following the date of receipt".
11. On 10 August 2022 the Commissioner wrote to the Dorset Police and Crime Commissioner, reminding it of its responsibilities and asking it to provide a substantive response to the complainant's request within 10 working days.
12. Despite this intervention the Dorset Police and Crime Commissioner has failed to respond to the complainant.

13. From the evidence provided to the Commissioner in this case, it is clear that the Dorset Police and Crime Commissioner did not deal with the request for information in accordance with FOIA. The Commissioner finds that the Dorset Police and Crime Commissioner has breached section 10(1) by failing to respond to the request within 20 working days and it is now required to respond to the request in accordance with FOIA.

Right of appeal

14. Either party has the right to appeal against this decision notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)
GRC & GRP Tribunals,
PO Box 9300,
LEICESTER,
LE1 8DJ

Tel: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

15. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.
16. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Signed

Michael Lea
Team Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Annex 1

This Freedom of Information Act request relates to what was to become known as the Lush Paid to Lie Campaign and the support of the said campaign by Mr Martin Underhill the then Police and Crime Commissioner for Dorset.

This document is submitted to The Office of the Dorset Police and Crime Commissioner for the attention of Mr Simon Bullock the Chief Executive Officer.

The purpose of the Dorset Police and Crime Panel is to scrutinise and support the Police and Crime Commissioner on behalf of the public

The purpose of the Dorset Police and Crime Panel Complaints sub Committee is to consider and take action with regard to non-criminal complaints against the Police and Crime Commissioner of Dorset.

As you are aware on the 1st June 2018 Lush Cosmetics launched a campaign that accused the Police of having been Paid to Lie, the facts of this have been well covered in the past so I see no reason to explain further. You will remember that one of the main supporters in Dorset of the campaign was the former Police and Crime Commissioner Mr Martyn Underhill.

You will also be aware that as a result of Mr Underhill's vocal support of such a contentious and ill-judged campaign five members of the public wrote and complained either directly to the Office of the Police and Crime Commissioner or the Police and Crime Panel.

Those complaints were later forwarded to you as the chief Executive Officer of the Dorset Police and Crime Commissioner and Monitoring Officer by the Police and Crime Panel.

The Complaints Protocol agreed and set out the by the Police and Crime Panel on the 20th October 2015 was a sort of an instruction manual setting out the rules and processes as to how non-criminal complaints against the Police and Crime Commissioner would be investigated and dealt with.

The initial stages set out in the Complaints Protocol were firstly the complaint would be recorded by the Police and Crime Panel. It was then forwarded to you, you would record the complaint and then set about the process of investigating it.

After your investigation you would report your findings, making recommendations as to how the complaint should be dealt with. That information would be forwarded to [name redacted] the Monitoring

Office for Dorset County Council, now Dorset Council, [name redacted] was also the Clerk to the Police and Crime Panel.

If [name redacted] agreed with your findings and recommendations the complaint would be put before the Police and Crime Panel for their information and their subsequent agreement as to how the complaint would be dealt with.

The complainant would then be informed of the result of the investigation of their complaint.

If I have not set out as I under it the correct method of dealing with non-criminal complaints against the Police and Crime Commissioner, I would be obliged if you could advise me accordingly.

There had been five complaints made against Mr Underhill that is of course up until the 16th June 2018.

On the 14th June 2018 I received an email allegedly from Mr Underhill, however I believe the true author of that email was yourself. I can produce the email if required. On the 16th June I replied to that email, again I can produce a copy of that document if required.

I believe it to have been that same day, I noticed a mistake in my email that made a paragraph read incorrectly, I emailed Mr Underhill to point this out, and I got a reply from his Personal Assistant who informed that Mr Underhill was on leave until the 25th June 2018.

I did not hear anything further from Mr Underhill or his Office so on the 9th July 2018 I emailed his Office requesting the current position as to our email conversations. Later that same afternoon I received a letter from you dated the 9th July 2018 the second paragraph of that letter stated as follows.

I understand that the PCC has already contacted you directly to explain some further context around his comments, to which you have subsequently replied with further questions. It is my assessment, and I trust you will agree , that you remain dissatisfied and that your latest correspondence constitutes a complaint against the PCC.

The letter also contained further paragraphs as follows. If required I can supply you with the full content of the letter. I believe however that you may have a copy of this document.